

(2) Funds to initially process, catalog and accession a collection to be generated during data recovery operations should be included in project mitigation budgets.

(3) Funds to store, inspect, inventory, maintain and conserve a collection on a long-term basis should be included in annual operating budgets.

(e) When the Federal Agency Official determines that data recovery costs may exceed the one percent limitation contained in the Archeological and Historic Preservation Act (16 U.S.C. 469c), as authorized under section 208(3) of the National Historic Preservation Act Amendments (16 U.S.C. 469c–2), the limitation may be waived, in appropriate cases, after the Federal Agency Official has:

(1) Obtained the concurrence of the Secretary of the U.S. Department of the Interior by sending a written request to the Departmental Consulting Archeologist, National Park Service, P.O. Box 37127, Washington, DC 20013–7127; and

(2) Notified the Committee on Energy and Natural Resources of the U.S. Senate and the Committee on Interior and Insular Affairs of the U.S. House of Representatives.

[55 FR 37630, Sept. 12, 1990; 55 FR 41639, Oct. 10, 1990]

§ 79.8 Terms and conditions to include in contracts, memoranda and agreements for curatorial services.

The Federal Agency Official shall ensure that any contract, memorandum, agreement or other appropriate written instrument for curatorial services that is entered into by or on behalf of that Official, a Repository Official and any other appropriate party contains the following:

(a) A statement that identifies the collection or group of collections to be covered and any other U.S. Government-owned personal property to be furnished to the repository;

(b) A statement that identifies who owns and has jurisdiction over the collection;

(c) A statement of work to be performed by the repository;

(d) A statement of the responsibilities of the Federal agency and any other appropriate party;

(e) When the collection is from Indian lands:

(1) A statement that the Indian landowner and the Indian tribe having jurisdiction over the lands consent to the disposition; and

(2) Such terms and conditions as may be requested by the Indian landowner and the Indian tribe having jurisdiction over the lands;

(f) When the collection is from a site on public lands that the Federal Agency Official has determined is of religious or cultural importance to any Indian tribe having aboriginal or historic ties to such lands, such terms and conditions as may have been developed pursuant to §-.7 of uniform regulations 43 CFR part 7, 36 CFR part 296, 18 CFR part 1312, and 32 CFR part 229;

(g) The term of the contract, memorandum or agreement; and procedures for modification, suspension, extension, and termination;

(h) A statement of costs associated with the contract, memorandum or agreement; the funds or services to be provided by the repository, the Federal agency and any other appropriate party; and the schedule for any payments;

(i) Any special procedures and restrictions for handling, storing, inspecting, inventorying, cleaning, conserving, and exhibiting the collection;

(j) Instructions and any terms and conditions for making the collection available for scientific, educational and religious uses, including procedures and criteria to be used by the Repository Official to review, approve or deny, and document actions taken in response to requests for study, laboratory analysis, loan, exhibition, use in religious rituals or spiritual activities, and other uses. When the Repository Official to approve consumptive uses, this should be specified; otherwise, the Federal Agency Official should review and approve consumptive uses. When the repository's existing operating procedures and criteria for evaluating requests to use collections are consistent with the regulations in this part, they may be used, after making any necessary modifications, in lieu of developing new ones;

(k) Instructions for restricting access to information relating to the nature,

location and character of the prehistoric or historic resource from which the material remains are excavated or removed;

(l) A statement that copies of any publications resulting from study of the collection are to be provided to the Federal Agency Official and, when the collection is from Indian lands, to the Tribal Official and the Tribal Historic Preservation Officer, if any, of the Indian tribe that owns or has jurisdiction over such lands;

(m) A statement that specifies the frequency and methods for conducting and documenting the inspections and inventories stipulated in § 79.11 of this part;

(n) A statement that the Repository Official shall redirect any request for transfer or repatriation of a federally-owned collection (or any part thereof) to the Federal Agency Official, and redirect any request for transfer or repatriation of a federally administered collection (or any part thereof) to the Federal Agency Official and the owner;

(o) A statement that the Repository Official shall not transfer, repatriate or discard a federally-owned collection (or any part thereof) without the written permission of the Federal Agency Official, and not transfer, repatriate or discard a federally administered collection (or any part thereof) without the written permission of the Federal Agency Official and the owner;

(p) A statement that the Repository Official shall not sell the collection; and

(q) A statement that the repository shall provide curatorial services in accordance with the regulations in this part.

§ 79.9 Standards to determine when a repository possesses the capability to provide adequate long-term curatorial services.

The Federal Agency Official shall determine that a repository has the capability to provide adequate long-term curatorial services when the repository is able to:

(a) Accession, label, catalog, store, maintain, inventory and conserve the particular collection on a long-term basis using professional museum and archival practices; and

(b) Comply with the following, as appropriate to the nature and consent of the collection;

(1) Maintain complete and accurate records of the collection, including:

(i) Records on acquisitions;

(ii) Catalog and artifact inventory lists;

(iii) Descriptive information, including field notes, site forms and reports;

(iv) Photographs, negatives and slides;

(v) Locational information, including maps;

(vi) Information on the condition of the collection, including any completed conservation treatments;

(vii) Approved loans and other uses;

(viii) Inventory and inspection records, including any environmental monitoring records;

(ix) Records on lost, deteriorated, damaged or destroyed Government property; and

(x) Records on any deaccessions and subsequent transfers, repatriations or discards, as approved by the Federal Agency Official;

(2) Dedicate the requisite facilities, equipment and space in the physical plant to properly store, study and conserve the collection. Space used for storage, study, conservation and, if exhibited, any exhibition must not be used for non-curatorial purposes that would endanger or damage the collection;

(3) Keep the collection under physically secure conditions within storage, laboratory, study and any exhibition areas by:

(i) Having the physical plant meet local electrical, fire, building, health and safety codes;

(ii) Having an appropriate and operational fire detection and suppression system;

(iii) Having an appropriate and operational intrusion detection and deterrent system;

(iv) Having an adequate emergency management plan that establishes procedures for responding to fires, floods, natural disasters, civil unrest, acts of violence, structural failures and failures of mechanical systems within the physical plant;

(v) Providing fragile or valuable items in a collection with additional